

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **Special Meeting**

### **November 24, 2015**

The Edmonds City Council meeting was called to order at 6:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

#### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Adrienne Fraley-Monillas, Council President  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Joan Bloom, Councilmember  
Thomas Mesaros, Councilmember  
Michael Nelson, Councilmember

#### **ELECTED OFFICIALS ABSENT**

Diane Buckshnis, Councilmember

#### **STAFF PRESENT**

Al Compaan, Police Chief  
Jim Lawless, Assistant Police Chief  
R. Barker, Police Officer  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.  
Shane Hope, Development Services Director  
Scott James, Finance Director  
Rob English, City Engineer  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

Mayor Earling advised that he swore in Councilmembers Mesaros and Nelson prior to the meeting. The election was certified today at 1:00 p.m. and since both were appointed, they needed to be sworn in to participate in tonight's meeting.

#### **1. ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Councilmember Buckshnis.

#### **2. APPROVAL OF AGENDA**

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO MOVE ITEM 3G, WDFW GRANT AGREEMENT AMENDMENT AUTHORIZATION, TO 6G AND MOVE 6G, FISHING PIER REHABILITATION PROJECT BID AUTHORIZATION, TO 3G. MOTION CARRIED UNANIMOUSLY.**

Councilmember Bloom referred to Item 5A, recalling last week there were two public hearings, one regarding revenue sources including adoption of a Substantial Need Resolution and property taxes and a second regarding the budget. She asked whether public comment would be taken at another meeting regarding the budget since it is not listed on tonight's agenda. Finance Director Scott James said public hearings were noticed for both, property taxes and the budget and they were combined into one agenda item. Councilmember Bloom pointed out Item 5A does not refer to public comment regarding the budget, only revenue sources and adoption of the Substantial Need Resolution. She asked if there would be

another opportunity for public comment specifically regarding the budget. Mr. James advised a second public hearing on the budget is scheduled next week.

Council President Fraley-Monillas asked what the public notice stated. City Clerk Scott Passey explained the originally public notice stated public hearings on the 2016 budget will be held on November 17<sup>th</sup> and 24<sup>th</sup> and the public hearing on the proposed 2016 property levy will be held on November 17<sup>th</sup>. The November 17<sup>th</sup> meeting was subsequently cancelled so the public hearing was re-noticed for tonight to focus on revenue sources. Council President Fraley-Monillas observed the agenda item did not specify the items on which public comment would be taken. Mr. Passey acknowledged the agenda should have included the budget and 2016 revenues sources.

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.**

**3. APPROVAL OF CONSENT AGENDA ITEMS**

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:**

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF NOVEMBER 10, 2015**
- B. APPROVAL OF CLAIM CHECKS #217122 THROUGH #217223 DATED NOVEMBER 12, 2015 FOR \$1,446,322.35. APPROVAL OF PAYROLL CHECK #61861 FOR \$468.57 FOR THE PAY PERIOD OCTOBER 16, 2015 THROUGH OCTOBER 31, 2015**
- C. APPROVAL OF CLAIM CHECKS #217224 THROUGH #217340 DATED NOVEMBER 19, 2015 FOR \$1,020,393.59. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #61862 THROUGH #61873 FOR \$486,020.88, BENEFIT CHECKS #61874 THROUGH #61878 AND WIRE PAYMENTS OF \$524,040.78 FOR THE PAY PERIOD NOVEMBER 1, 2015 THROUGH NOVEMBER 15, 2015**
- D. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM RICHARD ZINKAND (\$5,896.13)**
- E. AUTHORIZATION FOR MAYOR TO SIGN RIGHT OF WAY DOCUMENTS FROM EDMONDS-WOODWAY HIGH SCHOOL FOR THE 76TH AND 212TH INTERSECTION IMPROVEMENTS**
- F. COUNCIL CHAMBERS A/V UPGRADES PROJECT**
- G. FISHING PIER REHABILITATION PROJECT BID AUTHORIZATION**

**4. AUDIENCE COMMENTS**

**Jenny Anttila, Edmonds**, said Edmonds is one of most liberal cities in the area with regard to parking including Mukilteo, Lynnwood and Kirkland. She did not object to 3-4 hour parking limits but suggested the salary of a full-time parking enforcement officer could be funded via parking enforcement. She clarified she was not suggesting meters but noted several areas have no parking restrictions such as 6<sup>th</sup> Avenue or near City Hall where people park all weekend and take the ferry. She also referred to Sunset Avenue where there is a 4-hour parking limit; however, due to lack of enforcement, people park for 7-8 hours, taking their golf clubs onto the ferry. She objected to the lack of parking enforcement and

suggested a multistory city car park at the 3<sup>rd</sup> Avenue Park. She suggested the City establish a parking policy or plan, fearing the parking situation which is bad enough now will get worse in the next two years.

**Ron Wambolt, Edmonds**, spoke regarding traffic enforcement, noting the agenda references only revenues and he was unclear when to speak regarding expenses. During the past year the City Council has spent considerable time on crumb rubber and finding a safer access to the waterfront, two very important issues. However, crumb rubber and access to the waterfront are both are potential causes of death; traffic is a current cause of injury and death, yet the Council has not spent any time addressing that issue. Two pedestrian were killed in 2014 but the 2015 budget included no action to address that situation. There have been 31 additional vehicle/pedestrian accidents since the beginning of 2014 through Oct 2015 and an additional accident occurred last week; an average of 1 pedestrian hit by a vehicle every 3 weeks. At the last Council meeting, Councilmember Nelson inquired about resources devoted to traffic enforcement; regardless of the number devoted to traffic control, it is obviously adequate. Too many drivers driving imprudently, speeding, rolling through stop signs, parking too close to stop signs and crosswalks, making turns into the wrong traffic lane, failure to use turn signals, and failure to give the right-of-way to pedestrian in crosswalks. The state of the City's traffic needs Council attention before the number of fatalities increase. He doubted this City Council wanted to be known as a Council that did not care about deaths on the streets. Adding a Council legislative assistant and easing the workload on the second floor should be a slower priority. He recalled having the permit center closed on Wednesdays was not a precedent; it had also been closed on Wednesdays during the last construction bubble. He urged the Council to elevate the importance of traffic enforcement.

**Roger Hertrich, Edmonds**, referred to Mr. Wambolt's comments, pointing out drivers in Edmonds are getting older which may be part of the accident problem. He recalled at the November 10<sup>th</sup> meeting City Attorney Jeff Taraday was asked about the letter from Edmonds School District regarding the ban on crumb rubber to which Mr. Taraday responded he had not had an opportunity to scrutinize it although it had been sent on November 6<sup>th</sup>. Mr. Hertrich's review of the District's letter found great emphasis on the District's ability to implement its educational programs; he did not feel health was related to educational programs. The District's letter states they provide for the health and safety of students; however, the City is responsible for the health of all citizens. The letter states the City has the right to limit setbacks, etc. but does not address the City's attempt to regulate health. Most of the District comments were in regard to obstruction of anything related to the educational process; he did not view that the Council's efforts to limit crumb rubber as having anything to do with educational process. He looked forward to the Council having a discussion with the City Attorney in public, noting the public has not seen the District's letter. Next, he objected to Council President Fraley-Monillas' comments in newspaper, "The emotional issue should not be decided on who yells the loudest, makes the most threats and objects the most." He did not recall any of those things had occurred when citizens spoke.

## 5. **PUBLIC HEARING**

### A. **PUBLIC HEARING ON 2016 BUDGET REVENUE SOURCES, INCLUDING ADOPTION OF THE SUBSTANTIAL NEED RESOLUTION AND THE 2016 PROPERTY TAX LEVY ORDINANCE**

Finance Director Scott James provided an overview of tonight's 2016 budget and property tax agenda items.

1. Open public hearing
2. Accept public comment
3. Staff presentation on property taxes
4. Council will be asked to approve a Substantial Need Resolution
5. Council will be asked to approve the 2016 Property Tax Ordinance

6. Staff will present recommended changes to 2016 budget decision packages
7. Council resume discussion of the 2016 budget
8. Continue the public hearing to December 1, 2015

Mayor Earling opened the public participation portion of the public hearing.

**Jeff Sheerer, Edmonds**, said he was not against taxes but was speaking for the hardworking families whose wages are not going up and the people who receive social security whose benefits are not increasing. He imagined a more efficient, effective and accountable government that uses common sense approaches. Hardworking taxpayers deserve a government that delivers what it promises and with regard to taxes, a government that takes not a penny more than it spends or needs because that's how families operate their budgets. When deciding whether to increase property taxes, he suggested the Council consider that an increase in property taxes puts affordable housing further from reach. Working wages are not increasing and people on fixed incomes and social security are not receiving cost of living increases this year. Voters just approved a limit on tax increases in Olympia and a proposition to increase retail sales and use tax is narrowly passing. Next year Sound Transit plans to propose raising sales tax on most Snohomish County residents by ½%, raise the Motor Vehicle Excise Tax and impose a new property tax for light rail. Increasing property taxes deals working families an added burden; working families must live within their available income and the City should do same. He urged the Council to go back to work on the budget and not raise property taxes.

**Senator Maralyn Chase, Edmonds**, thanked Councilmembers for the courtesy, respect and dignity with which they have handled the crumb rubber issue. She acknowledged proponents of the crumb rubber issue are excited and may occasionally engage in inappropriate behavior, but everyone felt the Council had given them a fair hearing. Next, she asked for the Council's help; the legislature will be dealing with budgets in Olympia. The Public Works Trust Fund was swept and put in the Education Legacy Account, money that should have gone to help cities with infrastructure costs. She was hopeful the City could address cities' needs from the point of view that infrastructure must be provided in order to grow the economy. She distributed packets of information regarding income growth, income and equality, and taxes that shows Washington has the most regressive tax structure in entire United States. Cities are starved for resources and tax reform is needed. From 1979 to 2012 the income of the majority of people went down 3%. There is an economic crisis with regard to taxes and the need for more taxes and the inability to squeeze it out of the budget. She offered to return to the Council at another time to discuss the information she distributed.

**Roger Hertrich, Edmonds**, said the City seemed to approve a 1% tax increase every year or put it on hold for another year. He recalled when he on City Council, the Council identified specific things that would be funded with the 1% increase. He suggested the Council identify a specific item that the 1% would fund such as chip seal. He pointed out Engineering and the Public Works Department have increased work on roads but they neglected to include chip seal. He suggested Edmonds be like Shoreline who has chip sealed 90% of their streets. He summarized chip seal is a very effective process and the City could get a lot for its money. He urged the Council to identify chip seal as the use for the 1% property tax increase.

Mayor Earling closed the public participation portion of the public hearing.

Mr. James provided the following information:

- 2016 Budget Includes 1% Property Tax Increase
- Assessor Shows City of Edmonds Assessed Values Increasing 8.22% (Increase in AV before adding in new construction)
- New Construction adds \$43.5 million Assessed Value

He described the 2016 Regular Property Tax calculation for the City:

<u>Description</u>	<u>Amount</u>
2015 Levy Amount	\$9,970,971
Add New Construction	64,017
Add Allowance for Adjustments	9,553
Add Refunds	447
2016 Starting Point	<u>\$10,044,988</u>
Add 1% of 2015 Levy	99,710
Total 2016 Levy	<u>\$10,144,698</u>

Mr. James reviewed a graph of the 10 year assessed property values history for the City, advising 2016 marks the third consecutive year for increased property taxes in Edmonds following four years of declining assessed values. He highlighted assessed values of \$6.6 billion in 2007, peaking at \$7.7 billion in 2009, declining to \$5.5 billion in 2013 and increasing to over \$7.3 billion in 2016. He provided a graph of the rate per \$1,000 of assessed value history, highlighting a rate of \$1.33 in 2007, \$1.19 in 2009, peaking at \$1.76 in 2013 and decreasing to an estimated \$1.37 in 2016. He noted placing the graphs side by side illustrates an inverse relationship; as assessed values go down, tax rates increase.

He provided an overview of the 2008 – 2016 EMS Tax Levy:

- In 2008 citizens voted to make the EMS Levy a permanent \$0.50 levy
- During 2010 – 2013 assessed property values declined
- During this span of time Edmonds assessed value dropped just over 31%
- EMS levy cannot exceed \$0.50
- In a declining assessed value environment the City’s EMS levy also declines

Mr. James provided a comparison of EMS Tax Levy 2009-2016

<u>Year</u>	<u>Action</u>	<u>EMS Levy</u>	<u>Levy Savings</u>
2009	\$0.50 Permanent EMS Levy becomes effective	\$3,854,605	\$0
2010	EMS Levy Declines	3,477,741	376,864
2011	EMS Levy Declines	3,216,629	637,976
2012	EMS Levy Declines	2,897,322	957,283
2013	EMS Levy Declines	2,772,620	1,081,985
2014	EMS Levy Increases	3,051,206	803,399
2015	EMS Levy Increases	3,395,376	459,229
2016	EMS Levy Increases	\$3,692,091	162,514
			<u>\$4,486,883</u>

He reviewed a graph of EMS Levy Rate per \$1,000 of assessed value history, highlighting \$0.36 in 2007, \$0.32 in 2008, and permanent \$0.50 levy effective in 2009. He described the 2016 EMS Property Tax calculation for the City:

<u>Description</u>	<u>Amount</u>
2015 Levy Amount	\$3,387,743
Add New Construction	21,750
Add Allowance for Adjustments	3,540
Add Refunds	460
2016 Levy	<u>43,413,493</u>
Add "Banked Capacity"	278,598
Total 2016 Levy	<u>\$3,692,091</u>

Mr. James relayed 2016 will be the last year for Public Safety bond payment; the bond payment in 2016 will be \$949,540. He described the impacts of tax increases:

- 2015 Average Residence Value is \$394,700
- 1% Regular Tax Levy Increase = \$5.81
- Keeping EMS Levy at \$0.50 = \$16.22
- Average Residence would pay \$22.03 in 2016, or about \$1.84 per month extra

He reviewed revisions to the proposed Substantial Need Resolution and the Property Tax Levy Ordinance:

- Section 1 of Resolution: Pursuant to the foregoing finding of substantial need and pursuant to RCW 84.55.0101, the city council desires to increase to the City of Edmonds 2016 regular property tax levy by a limit factor of one hundred one percent (or 499,710).
- Section 1 of Ordinance: The limit factor of the regular levy to be collected in budget year 2016 shall be limited to ~~the 101% or 100% plus inflation, whichever is lower~~ of the highest amount of regular property taxes that could have been levied in the City in any year since 1985.

Mr. James described why the Substantial Need Resolution is on tonight's agenda. Cities are allowed to levy an increase in property taxes by the lesser of 1% or the rate of inflation as measured by the Implicit Price Deflator (IPD). This year the rate of inflation as measured by IPD is 0.251%. Passing the Substantial Need Resolution will allow Edmonds to increase the property tax by the full 1% as allowed by RCW. Council passage of a Substantial Need Resolution requires a super majority vote. He displayed motions related to passage of the Substantial Need Resolution and the 2016 Property Tax Levy Ordinance:

- 1) To Approve Resolution No. XXXX Finding Substantial Need to Levy Property Taxes Using a Limit Factor of 101% Notwithstanding a Lower National Inflation Rate.
- 2) To Approve Ordinance No. XXXX Levying 1% Regular Property Tax Increase for 2016, Levying 8.2% EMS Tax Increase and Levying \$949,540 for Public Safety Voted Debt for Public Safety Complex.

Mayor Earling advised Parks & Recreation Director Carrie Hite needed to leave to attend an Edmonds School Board meeting; Council questions related to parks will need to be delayed until the next meeting.

Councilmember Petso asked if the appropriate levy rate under State law would be 0.25% increase if the Council does not find the City has a substantial need at this time to levy the full 1%. Mr. James answered RCW allows cities to levy an increase in property taxes by 1% or the IPD rate which this year is 0.251%. The Substantial Need Resolution allows the Council the option of raising the levy by 1% as allowed by RCW. Councilmember Petso reiterated if the Council finds there is not a substantial need, either because savings have already been identified in the budget, and the budget includes ten new positions, funding for travel and training for Councilmembers, etc., a want-to rather than need to budget, the Council could not approve the Substantial Need Resolution and levy only 0.25%. Mr. James agreed. He pointed out things that support the substantial need:

- 1) The contract relationship with Fire District 1. The budget includes an estimated increase for 2016 of over \$235,000. The City is still waiting for FD1 to settle with the bargaining unit. The \$235,000 increase is a minimum
- 2) Salary and benefit increases for current staff total \$225,000.
- 3) Edmonds has a very low tax rate, the fifth lowest in Snohomish County

Mr. James summarized the FD1 increase and staff increases total \$465,000 which alone justifies the substantial need. He noted the importance of meeting citizens' needs; the proposed budget includes

additional officers which are increased cost and also justify the \$99,740 or \$5.81/year for the average resident.

In addition to \$225,000 in increases for current staff, Councilmember Petso asked about the increased amount for 10 new employees. Mr. James estimated it was \$680,000.

Council President Fraley-Monillas commented the 1% increase is not just a one-time amount, it progresses into future years. Mr. James agreed. Council President Fraley-Monillas asked what constituted a super majority when six Councilmembers were present. City Attorney Jeff Taraday said a super majority is majority plus one; a super majority of the seven member body is five even if not all Councilmembers are present.

For Councilmember Bloom, Mr. James identified the ten new positions and departments:

- Part-time Council legislative assistant
- Finance Department staff accountant (DP #11)
- Two officers for the Street Crime Unit (DP #23)
- Full-time building inspector (DP #34) Development Services
- Half-time permit coordinator (DP #35) Development Services
- Half-time advance planner (DP #36) Development Services
- Half-time arts assistant (DP #40)
- Full-time custodian (DP #43)
- Full-time construction inspector, 90% paid by Utilities and 10% from grants and General Fund (DP #44)
- Part-time seasonal cemetery laborer, Utility Fund
- Full-time water department employee (DP #59) Utility Fund
- Stormwater employee (DP #61) Utility Fund

Councilmember Bloom asked whether the list totaled ten positions. Mr. James answered the legislative assistant, permit coordinator, advance planner and arts assistant are part-time employees and the seasonal cemetery laborer is less than half-time. Councilmember Bloom asked which positions were paid by the Utility Fund. Mr. James advised the staff accountant position is paid by the General Fund but a portion is charged back via an overhead charge to the Utility Fund, nearly \$37,000. The construction inspector is paid 90% by the Utility Fund and the stormwater and water department employees are also paid out of the Utility Fund. Councilmember Bloom explained she was asking about positions funded by the Utility Fund because the City significantly increased its utility taxes and will be considering another increase next year. Mr. James agreed the City has completed a series of three year increases, noting part of the purpose was to avoid issuing debt for utility projects.

Councilmember Mesaros referred to the impacts of the tax increase, relaying if the Council approved the Substantial Need Resolution and the 2016 Property Tax Levy, an average homeowner of a property valued at \$394,700 would pay an additional \$1.84/month. Mr. James agreed. Councilmember Mesaros observed that additional tax burden was less than the price of a cup of coffee at Starbucks.

Councilmember Johnson commented coffee at McDonald's is only \$1. She asked what year the Council banked capacity. Mr. James answered it was 2013. Councilmember Johnson asked the effect of banking capacity, whether it would be 1% less the 0.25% or 0.75%. Mr. James answered 1% is \$99,710; refunds are deducted from the banked capacity, leaving approximately \$99,300. Councilmember Johnson asked the effect of banking capacity. Mr. James answered banking means if the Council elected not to raise the property tax levy by 1%, the Council has the option of banking it for a future year, reserving the 1% to raise it at a later date.

Councilmember Nelson asked how many of the ten positions are restoration of positions. Mr. James answered they were all restorations with the exception of the construction inspector and the legislative aid.

Council President Fraley-Monillas noted citizens have mentioned chip seal, parking problems, more police for traffic control, affordable housing, and fire services. The proposed increase of \$1.84/month is not an excessive amount to ask citizens to pay for services. As Senator Chase stated, Washington has a regressive tax system and the proposed amount is not too much to pay to allow the City to provide services to its citizens.

Councilmember Petso explained the difficulty she faces is not the magnitude of the tax increase, obviously a 1% tax increase is not enormous, but the Council is being asked to find the City has substantial need to increase the property from the ¼% allowed by code to 1% and she did not feel there was a substantial need to do that. It did not matter what a citizen could buy with the additional \$1.84; her concern was the City could not levy 1% unless the Council was willing to say the City has substantial need for 1% rather than being limited to ¼%.

Councilmember Nelson asked whether the ordinance defined substantial need. Mr. James said the resolution identifies substantial need. The IPD rate was 0.251%; City staff COLAs were 1.6%. IPD is a measure of the change in gross domestic product which has very little correlation with the increase in the cost of goods and services. For example, the union increases are not based on IPD. Councilmember Nelson asked Mr. James whether he believed there was a substantial need for the increase. Mr. James answered absolutely, no question about it. One reason alone is the increase in the FD1 cost which will continue to exceed 1% every year so the City is already falling behind. The estimated \$235,000 FD1 increase is an estimate; the 1% property tax increase would generate \$99,700, a substantial gap. Added to that are staff salary increases of over \$225,000. The City would like to add services that are currently deficient such as the Street Crimes Unit, a staff accountant in Financial Services and Development Services is closed one day a week which he questioned was the best way to offer services. Those items demonstrate loudly there is substantial need.

Council President Fraley-Monillas observed substantial need is not defined in the statute. Mr. James displayed a definition of IPD vs. CPI: "A ratio of nominal GDP to real GDP expressed as a percentage. The GDP price deflator is used as a measure of the inflation rate; it does not account for price changes in commodity baskets like the Consumer Price Index. Rather it shows changes in GDP compared with a base year (1985)." He reiterated the IPD was not a good measure of year-to-year cost increases.

Council President Fraley-Monillas asked whether Council could wait to adopt the Substantial Need Resolution and 2016 Property Tax Levy Ordinance until Councilmember Buckshnis returned, noting the Council has not heard from her regarding this topic. Mr. James recalled Councilmember Buckshnis was supportive of the budget as presented. The Council cannot wait to take action; the RCW-mandated deadline to pass the resolution and ordinance and get it to the County is November 30. Mr. Taraday advised the Council could wait if there were a special meeting during the day on November 30<sup>th</sup> but otherwise they cannot wait.

Councilmember Bloom observed the difference is approximately \$74,000. The property tax levy can be raised by ¼% without adopting the Substantial Need Resolution. Mr. James agreed, noting the Substantial Need Resolution still needs to be approved if the Council wanted to bank the \$74,000.

Councilmember Mesaros said in listening to this discussion and the public's comments about the City's needs in public safety and traffic control, the addition of individuals to the Police Department needs to be addressed by the Council. In developing this budget and attempting to restoring services that have been

lost during the recession over the past several years, he felt there was substantial need. He did not believe \$1.84/month on the average home was too burdensome to ask of citizens so that the City serve them to the best of its ability. Citizens are fortunate to live in a city that has been very prudent and has one of the lowest tax rates in Snohomish County. Even after passing the 1% property tax increase, Edmonds will continue to have one of lowest tax rates. After passing the increase, Councilmembers can look at citizens and say they are being good stewards of their resources and providing the best services possible for the dollars available.

Councilmember Johnson relayed her understanding the Substantial Need Resolution needed to be approved even if the Council chose to bank the capacity for a future year. Mr. James agreed. Councilmember Johnson said that would be a prudent course if there were not sufficient votes to increase the levy rate by 1% for 2016. For that reason and the reasons Mr. James explained, most particularly the FD1 increase which she anticipated would be more than 1% per year, she supported adoption of the Substantial Need Resolution.

Mr. James referred to the 2009-2016 EMS Tax Levy, explaining citizens voted in 2008 for a levy of \$3.8 million; the levy amount has decreased every subsequent year. The reductions directly impact the City's ability to fund services. Citizens have experienced savings of \$4.4 million due to decreased EMS levy since 2010.

Councilmember Bloom found this a difficult decision because like Senator Chase said, Washington has a regressive tax system, not due to property tax but the lack of an income tax. There are a lot of seniors on fixed incomes in Edmonds; \$1.84/month is not much but it continues to add up. She found it difficult to increase taxes while adding ten positions and did not see there was a substantial need. She preferred to do more belt-tightening and remove \$75,000 somewhere in the budget.

Councilmember Petso agreed with Councilmember Bloom, questioning the ability to demonstrate that \$74,000 represented a substantial need. For example savings of \$60,000 have already been identified in the PFD line item in the budget; she questioned whether the need now was only \$14,000. She understood the City will need more money over the long term but the reason is not the willingness to find substantial need this year; it is hiring ten new employees and being limited to a 1% tax increase or pulling all the one time expenditures out of the General Fund. With this budget, there are no more capital projects in the General Fund that can that can be delayed or deferred. An additional \$74,000 will not change that; it is a question of whether Councilmembers can leave tonight's meeting and say with a straight face that the City had a substantial need for \$74,000. She was intrigued by the idea of banking but that would also require adoption of the Substantial Need Resolution.

Council President Fraley-Monillas said according to the resolution there is a substantial need. She reminded the \$74,000 is not a one-time amount; it is collected year after year so the impact is more than just this year. She suggested banking the capacity into the future to allow for the possibility of collecting it in the future if there is consensus in the future that substantial need exists. She asked whether banking would also require a super majority vote. Mr. James answered a super majority is required to pass the Substantial Need Resolution.

Councilmember Mesaros relayed he can say with a straight face that the City has a substantial need. Looking out beyond this year, the City's revenue projections are bleak. He encouraged Councilmembers to look at 2016 as well as into the future. He feared not passing the 1% property tax levy increased would haunt the City for years to come.

Councilmember Petso asked if the language of the Substantial Need Resolution could be tweaked to reference that a substantial need is found to bank the capacity. Mr. James said the resolution as presented,

\$99,700, needs to be passed. The Council would then have the opportunity raise the levy by 1% or bank it. For example if the Council wanted to approve the 1% increase, the resolution and ordinance could be passed as presented. If the Council wanted to bank the capacity, the Council would pass the resolution as presented and the ordinance would need to be modified to raise the property tax levy by 0.251% and bank the \$74,000 difference or whatever amount the Council chooses.

Councilmember Petso asked whether the Council needed to state there was a current substantial need or could the language be modified to refer to a future substantial need. Mr. James said the resolution simply needs to state a substantial need and it could be justified however the Council wished. The ordinance must state the percentage rate increase and the dollar amount. Councilmember Petso asked whether the dollar amount appears in the resolution. Mr. James referred to the revision that added the dollar amount of \$99,710.

Councilmember Petso suggested returning to this later, suggesting staff draft language that states the Council did not find there was a substantial need for the 2016 budget but finds a substantial need to bank the capacity.

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE MOTIONS PROPOSED BY STAFF AS PRESENTED.**

Councilmember Mesaros found there was substantial need for the 2016 budget as well as due to the impact in the next several years. He said it is time to act as a Council; he did not find the impact would be overly burdensome on citizens and it would allow the City to deliver services that citizens count on.

**UPON ROLL CALL, MOTION FAILED TO ACHIEVE A SUPER MAJORITY (4-2); COUNCIL PRESIDENT FRALEY-MONILLAS AND COUNCILMEMBER JOHNSON, MESAROS AND NELSON VOTING YES, AND COUNCILMEMBER BLOOM AND COUNCILMEMBER PETSO VOTING NO.**

Councilmember Petso reiterated her request to bring this back later on the agenda to allow staff to develop language for a Substantial Need Resolution that contemplated banking the property tax increase. It was the consensus of the Council to return to this later on the agenda.

**6. STUDY ITEMS**

**A. AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH ZACHOR & THOMAS, INC., P.S. FOR PROSECUTING ATTORNEY SERVICES**

Sharon Cates, Lighthouse Law Group, explained Zachor & Thomas currently has an agreement with the City to provide prosecuting attorney services through the end of 2015; that agreement includes a provision that they negotiate with the City during 2016. Zachor & Thomas approached the City in July and presented a proposal for the 2016 calendar year. Zachor and Thomas had numerous concerns including the new Tuesday court calendar the Municipal Court Judge put in place in July, the City's hiring of new defense counsel that they feared would substantially increase their workload as well as Washington State Supreme Court's new standards for indigent defense. Zachor & Thomas provided their concerns during multiple meetings; many of their concerns were anticipatory, including that the new defense firm would create more work for them than the former defense firm under same standards.

Ms. Cates explained the 2016 agreement that was eventually developed works well for City and staff recommends an RFQ process during 2016 to see what the market is for prosecuting attorney services. The proposed agreement also works for Zachor & Thomas; they originally requested an increase that would fund a full-time attorney, the City negotiated an increase that would cover half of an attorney. The

proposed agreement also allows Zachor & Thomas to bill separately for the Tuesday calendar. The \$12,000 for the court calendar has been added to the budget. Zachor & Thomas has been asked in recently years to do more review of charging decision; the agreement includes 125 reviews and reviews over that amount would be billed at their hourly rate with a cap of \$150/case.

Mayor Earling relayed staff has spent a lot of time negotiating the most respectable agreement that could possibly be reached.

Council President Fraley-Monillas expressed interest in doing an RFQ in the coming year to investigate other firms. Ms. Cates agreed that is staff's recommendation and it makes sense for the City to do. Council President Fraley-Monillas commented it has been a long time since the City has done an RFQ for prosecuting attorney services.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**B. EDMONDS SCHOOL DISTRICT - EMERGENCY ACCESS KEY ILA**

Assistant Police Chief Jim Lawless explained over the past several years the Police Department has had several keys that allow access to all the doors on District property. Given the sensitive nature of these keys, the District prepared an ILA outlining the responsibilities in maintaining the keys which has been approved by the District.

Councilmember Petso took the opportunity to commend ACOP Lawless for his agenda memos, finding them clear and concise.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**C. YAKIMA COUNTY INMATE HOUSING AGREEMENT - ADDENDUM**

Assistant Police Chief Jim Lawless reported in 2014 the City entered into an agreement with Yakima County to house inmates for longer term commitments. The City has several contracts with jail facilities, the primary being Snohomish County; they are often at maximum capacity. Yakima County has the ability to provide inmate housing for considerably less money. The City has an existing agreement with Yakima County so this is basically a renewal of the current agreement.

Councilmember Nelson asked whether the agreement was only for housing of male inmates. ACOP Lawless answered the agreement includes specifications for housing and transportation of both male and female inmates.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**D. ORDINANCE AMENDING ECC SECTIONS 5.32.107 AND 5.32.108 - SHELLFISH REGULATIONS AND ENFORCEMENT**

Assistant Police Chief Jim Lawless said this will update the current language in the ordinance related to shellfish regulation and enforcement. Over the past 4-5 years the RCWs and WACs regarding these regulations have been revised; the City's regulations have not been updated. The police department receives calls regularly during crabbing season calls; making these revisions to the code will prevent citing in South District. Fish & Wildlife often does not have staff available; these revisions will allow the City to take action if necessary.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

Mayor Earling declared a brief recess.

**E. DISCUSSION AND POTENTIAL ACTION ON DRAFT 2016 LEGISLATIVE AGENDA**

Economic Development & Community Services Director Patrick Doherty referred to the draft City of Edmonds 2016 State Legislative Agenda that lists items that would be actively pursued, Accelerate Funding for the SR 99 Edmonds Gateway Project and Capital Project Funding for the Frances Anderson Center, and several support items. He highlighted minor changes made since the legislative agenda in response to Council comments:

- Added Support for Capital Project Funding for Edmonds Senior/Community Center
- Added in the appendix, Environmental Issues (Monitor and potentially support environmental-protection measures, including those that would enhance the Puget Sound ecosystem, salmon recovery, drought management, toxics control and clean-up, as well as measures associated with climate change, crumb rubber athletic field infill, etc.)

With regard to the items that will be monitored and potentially supported, Councilmember Petso asked whether Council would be alerted if there was a request to actively support those items. Mr. Doherty answered that has not necessarily been done in the past. It is usually expressed via adoption of the legislative agenda. If a majority of the Council did not want to potentially support an item, it should not be on the list.

Councilmember Bloom asked how the Council will be updated during the legislative session, recalling there were frequent presentations to Council by the lobbyist in the past. Mr. Doherty said staff receives weekly memos from the lobbyist which could be summarized for Council. He commented the lobbyist's memos can be very detailed and it may be more effective for staff to provide the highlights. Mayor Earling said if there are any major initiatives the Council needs to be apprised of, Council can be alerted to ensure they support the action being taken. For example, the appendix includes Human Services, Homelessness and Affordable Housing; he anticipated some action would begin in 2016 that may carry over into 2017. If a public hearing occurs, the City will ask the lobbyist to sign in as supportive. That it is not necessarily a front burner issue for Edmonds, but the City would be supportive. If it becomes a major piece of legislation, it would be brought to Council.

Councilmember Bloom asked who receives the updates. Mr. Doherty said the Mayor and Directors receive weekly updates regarding the status of issues before the legislature; sometimes the lobbyist requests someone testify, sign in instead of the lobbyist, provide supporting information, etc. He reiterated the offer to compile periodic highlights for Council. Councilmember Bloom said that would be something to consider, commenting it would be helpful information for Councilmembers to have.

Councilmember Johnson agreed, recalling the Council received no information from the lobbyist during the last session because the lobbyist, Jennifer Zeigler, lives in Olympia and it is inconvenient for her to make presentations like the former lobbyist did. She suggested staff copy the Council on the information they receive from the lobbyist. Mayor Earling said Ms. Zeigler would be agreeable to providing the Council one or two updates during the two month session. Councilmember Johnson said the Council did not need to make a decision tonight but there was interest by the Council in further discussion.

Council President Fraley-Monillas said one of reasons she supported funds for Council travel in the budget was to allow Councilmembers to go to Olympia. Most of Councils in surrounding cities frequently go to Olympia to talk to their legislators and testify at hearings and Edmonds does not. Olympia is 92 miles one way; it would be nice for Council to have the ability to go to Olympia to assist with legislating for certain issues. Mr. Doherty said Mayor Earling and Directors go to Olympia on occasion. The more

members of leadership that are present on key issues in Olympia, the better. Mayor Earling said when he goes to Olympia, he pays for the gas himself.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**F. DISCUSSION OF FUTURE OF CITIZENS ECONOMIC DEVELOPMENT COMMISSION (CEDC)**

Economic Development & Community Services Director Patrick Doherty provided background:

- June 2, 2009 Council passed ordinance 3735 creating CEDC with sunset date of 12/31/10
- October 5, 2010 Council passed Ordinance 3808 extending sunset date until 12/31/11
- December 20, 2011 Council passed Ordinance 3868, extending sunset date until 4/29/12
- March 20, 2012 Council passed Ordinance 3876, extending sunset date until 12/31/15
- No other board or commission has a sunset date
- The CEDC's powers and duties are laid out in ECC Section 10.75.030:
  - A. The commission is empowered to advise and make recommendations to the mayor and city council, and as appropriate to the planning commission, architectural design board or other boards or commissions of the city on such matters as may be specifically referred to the commission by the mayor or city council, including but not limited to:
    - 1. Determining new strategies for economic development within the city of Edmonds
    - 2. Identifying new sources of revenue as a direct result of economic development projects for the consideration of the city council

At the 2015 City Council retreat a study subgroup was formed to study and discuss the CEDC, its purpose, usefulness, meeting format, subgroups and whether to extend the Commission or allow it to sunset. This subgroup, comprised of Councilmembers Bloom, Mesaros and Petso, met informally in October and discussed these issues, offering several observations and/or recommendations to be shared with full Council to inform decision-making on these issues. Issues discussed during the study group's two meetings included:

- Commission's charter and purpose as well as subgroups
- Costs – 15 hours/month staff time; \$133/month support
- Potential overlap with other commissions
- Transparency of subgroup discussions
- Number of commissioners (17)
- Should Commission be broken up into 2 or 3 separate commissions?
- Meeting format; conducive to fruitful discussion?
- Should Commission sunset or be extended?

Multiple options were offered for consideration

1. Extend the Commission as is:
  - a. Without sunset
  - b. With sunset clause. Number of years till sunset to be determined
  - c. Allow the Commission to set and determine subgroups as needed, within scope of their role per code.
2. Extend the Commission as is:
  - a. With terms of appointees since 2014 extended to run two full years, others to be reappointed or new appointees
  - b. All members being reappointed or newly appointed
  - c. With term limits
  - d. Without term limits
3. Extend the Commission as is:

- a. With set number and purpose of subgroups. If so two or three subgroups:
    - i. If two subgroups:
      1. Tourism
      2. Business Growth & Revitalization
    - ii. If three subgroups:
      1. Tourism
      2. Business Growth & Revitalization
      3. Strategic Action Plan (for items assigned to the CEDC or Economic Development Department OR for stewardship of future public engagement processes)
  - b. Allow the Commission to set and determine subgroups as needed, with the scope of their role per code.
4. Extend Commission as 9 members only
  5. Sunset the Commission but create two or three new commissions
    - a. If two:
      - i. Tourism
      - ii. Business Growth & Revitalization
    - b. If three:
      - i. Tourism
      - ii. Business Growth & Revitalization
      - iii. Strategic Action Plan
  6. Related to commission subgroups, if they exist:
    - a. Require public notice and meeting summaries
    - b. Do not require public notice, yet require meeting summaries.

Councilmember Mesaros asked whether the ordinances that formed other boards and commissions identified how they were structured and what subgroups they had or was this the only commission where Council provided direction regarding structure. Mr. Doherty did not recall that level of precision in other boards/commissions. Development Services Director Shane Hope agreed they did not.

Councilmember Bloom asked whether any other commission had 17 members. Mr. Doherty answered no, most had seven to nine members. Councilmember Bloom said one of her concerns was the amount of staff time dedicated to the CEDC. When the Council subgroup met to discuss boards and commissions, a comparison identified staff support provided to the CEDC as 42.5 hours/month, yet this presentation states 15 hours. She recalled Ms. Hope indicating to the Council subgroup that the number of hours had been reduced and asked how it had been reduced so dramatically. Mr. Doherty answered staff discovered Ms. Cruz's time was listed much higher in the original calculation and was corrected to be substantially lower. The hours listed in the presentation are the current status, not historically. For example, staff who may have routinely attended meetings in the past are attending to make presentations on specific items only. Councilmember Bloom said some of the reduction was in response to Council concern with the amount of staff hours dedicated to the CEDC.

Councilmember Petso relayed the most recent CEDC meeting included discussion among Commissioners regarding the size of the group and recognition that discussion had been lacking at the full Commission meetings where minutes are taken that can be reviewed by Council. With 17 members, discussion regarding items takes a great deal of time; the size of the Commission limits the ability for in-depth discussion. The last meeting was the first time she had heard Commissioners acknowledge that issue and contemplate how it might be addressed.

Councilmember Mesaros acknowledged discussion by 17 members would consume a lot of time. It is complimentary to the City that there are 17 citizens interested in and thinking about how to best develop economic development opportunities. He commented on the importance of considering economic

opportunities during good and poor economic times. The CEDC can provide good advice regarding economic opportunities to the Council as well as other boards and commissions. Having 17 members was a plus to him but how they utilize that time is an organizational and development issue and it behooves staff and CEDC leadership to determine how best to handle that. Mr. Doherty said in talking with Chair Mike Schindler, Vice Chair John Rubenkonig and Commissioner Brue Witenberg, concern was expressed that presentations do not leave enough time for discussion. It may be better to schedule discussion on substantive issues at each meeting and possibly send the issue to a subgroup or ad hoc group for further discussion. Also in that discussion it was agreed the CEDC can touch on very important, sometimes controversial issues such as Westgate, and comments that a smaller number of commissioners such as 9 would result in a quorum of only 5 and a recommendation could be forwarded with an affirmative vote of only 3 members versus 17 which requires a higher number for a quorum.

Council President Fraley-Monillas recalled the CEDC was put in place during the economic downturn when the City was laying off staff. She questioned whether other cities still have CEDCs; it was her experience with the upturn in economy, many have been dissolved. She viewed the CEDC as a keeper of the Strategic Action Plan, reaching out on items on which there has not been progress, being a conduit for the SAP. The SAP was a citizen-driven plan that determined priorities; the City has not done its best in tracking or implementing, partially due to staffing.

Councilmember Johnson said she has been involved since the beginning; Councilmember Buckshnis and she were members of the 50+ member Levy Lid Lift Committee who recommended the creation of the CEDC. The reason for its creation was an alternative to raising taxes and the general sense the City did not have an expense issue but a revenue issue. The CEDC was suggested to be a time limited commission, specifically to identify ideas during the economic downturn. The reason so many members were appointed was to get input from the highest number of citizens possible. The terms of appointment were not to exceed two years and there were a number of extensions because the work the CEDC had begun needed to be completed. The greatest areas of growth in the City from a revenue standpoint have been from automotive sales and construction; areas that have not be the subject of the CEDC, that are beyond the economic control of policy makers, and are related to the overall economy. The fact that the City is doing better is not the result of 1-2 actions but the regional and state economic condition, what happens at Boeing, low unemployment, etc.

Councilmember Johnson continued how the CEDC structures itself with regard to subcommittee and the number of members is not the primary issue; the primary issue is whether it should sunset or continue. At the beginning of each Historic Preservation Commission meeting, the mission is read to remind members why the group exists. The CEDC's enabling legislation identified the powers and duties as: develop new strategies for economic development and new sources of revenue. The things that came out of that were the Westgate and Five Corners proposals and the SAP, very dynamic and important things. The CEDC is also supposed to provide an annual report the first meeting in December which she was unsure had always been provided. The Commission is also supposed to provide reports and recommendations regarding strategies for economic development, commercial viability, tourist development and activity and joint recommendations with the Planning Board. It appears the CEDC moved away from that very specific action-orientation to more of a discussion/think-tank/ambassadorial function. For her that weighs heavily on the decision whether to sunset the group. Approximately three dozen citizens have served on the commission and she appreciated their work, particularly the long term members who have sustained the group but over time, there have been fewer and fewer recommendations from the CEDC.

Councilmember Bloom agreed the biggest issue was first deciding whether or not to sunset the CEDC. If the Council decides to continue the CEDC, this is the time for Council to take an active role in guiding what the CEDC's provides the Council input on. The subcommittees are important and should be noticed. This commission has changed over time and is having serious growing pains. The Council is responsible

for the fact the CEDC is not providing recommendations because the Council has not provided a high level of guidance to the CEDC. She disagreed with Councilmember Mesaros that the Council should take a hands-off approach and allow the CEDC to structure themselves. The purpose of the CEDC is to make recommendations to the Council and it behooves the Council to structure the commission so that they feel supported in whatever they are making recommendations on. She was concerned some of the CEDC's work had been duplicative of the Planning Board which was the reason the subcommittees recommended by the Council subgroup did not include land use. It is the Council's role to refer specific issues to the Planning Board or CEDC, not for the CEDC to decide they will provide input on certain land use issues.

Councilmember Petso agreed with Councilmembers Bloom and Johnson and said perhaps the CEDC did the job they were tasked with, developing new strategies and new revenue sources. They did that; gambling – no, Westgate – yes. It may be that their job is done.

Councilmember Mesaros commented economic development is never done; opportunities abound that need to be taken advantage of. When times are improving, that is another opportunity to consider how to continue that improvement. He was intrigued by Councilmember Johnson's comment regarding whether the CEDC should continue; from her perspective they may have their lost way in fulfilling the original charger. The right course of action is not to disband the CEDC but to remind them of their original charger and allow them to refocus. That is the support they want from the City Council. He did not support the Council being top down directive of boards and commissions, but rather to provide support by listening rather than telling them what to observe, see and do. He summarized this is an opportunity to refocus the CEDC and allow them to continue to do good work and take the City to another place during better economic times.

With regard to whether the CEDC should sunset or not, Councilmember Nelson said there is still a need for the CEDC. A lot of the economic rebound is regional; new strategies are needed for local revenue when the next downturn occurs.

Councilmember Bloom said she had hoped to have input from CEDC members themselves. From what Councilmember Petso said, they had a discussion and disagreement about the size of the Commission. She asked whether specific input could be obtained from Commissioners. Mr. Doherty said the Council is scheduled to continue discussion next week; Commissioners could be invited to attend next week's meeting and provide comment during Audience Comments. The CEDC Chair Mike Schindler provided an annual report recently and voiced support for continuing the CEDC.

Councilmember Bloom said in talking with couple Commissioners, she did not get the impression that the feeling about continuing the CEDC is unanimous. Mr. Doherty said having individual Commissioners speak would be their individual opinions, not the official position of the CEDC. Councilmember Bloom said she did not want a majority opinion; she was interested in individual opinions from all members regarding how the group was worked for them, noting some are more/less comfortable joining in a group that size. Mr. Doherty suggested inviting Commissioners to contact the Council. Mayor Earling pointed out the agendas for the next few meetings are very full; if 15 of the 17 members speak for 3 minutes, the meeting would be extend 45 minutes. He was concerned how that could happen in the short time remaining and the end-of-the-year work that needs to be done such as the CFP/CIP, budget, etc.

Council President Fraley-Monillas reminded Councilmembers they each have two appointees. She is aware of what one her appointees wants; it was up to her to contact the other one regarding their interest. Councilmembers could contact their appointees this week to determine their thinking. When the CEDC was established, the intent was for Council appointees to report to Councilmembers.

Councilmember Bloom said that was a great idea and was what she has been doing. She heard from her appointee that members were discouraged from talking to Council as individuals. Mr. Doherty said he had never heard anyone discouraged from talking to the Council. There is a difference between the CEDC taking a position as a whole; members are discouraged from characterizing their opinion as the CEDC's position but not from sharing their personal views.

Councilmember Petso said at the CEDC meeting, she encouraged commissioners to contact Councilmembers with their opinions on this topic and agreed Councilmembers should reach out to their appointee. She recalled discussion at the last CEDC meeting that individual members who speak to the Council are obligated to state that it is their personal opinion. The CEDC subgroups each developed a list of goals/priorities for the next year which was included in the Council packet (page 387). The subgroups brought their lists to an ad hoc group to develop a list of goals and strategies for the coming year for approval by the CEDC; that document was not approved at the CEDC's last meeting. She suggested the Council consider the subgroup's goals and determine how they fit with mission of the CEDC as described by Councilmember Johnson and determine whether to continue the CEDC and if they continue whether the concerns can be addressed. She recalled one of issues on a subgroup's list was Esperance annexation; the CEDC would not her first resource for that issue. The Commission plans to discuss next year's goals at their December meeting.

Councilmember Mesaros reported his two appointees have been in touch with him in the past 30 days and indicated they wanted the CEDC to be extended as it current exists. Two other CEDC members who contacted him said the same thing.

It was the consensus of the Council to continue discussion at the next meeting.

**G. WDFW GRANT AGREEMENT AMENDMENT AUTHORIZATION**

Mr. Williams reported Consent Agenda Item G had been to authorize staff to go to bid. This item is a modification to the existing grant agreement with WDFW, the owner of the fishing pier, who have partnered with the City to address 20+ years of deferred maintenance on the pier. Much of it is structurally related and if left unattended for many more years, could require removal of the pier. The funding package for construction was not available at the time the grant agreement was signed; the original scope of work was the design phase which has been completed and was 100% funded by the state. This item commits the resources that have now been acquired, a \$800,000 direct appropriation to the WDFW capital budget, a \$500,000 grant from the Aquatic Lands Enhance Account, and the City committed \$100,000 which provides a budget of approximately \$1.4 million. The current cost estimate is \$1.4 million; some of the scope will be moved into add alternates in the bid in case the bids are higher than expected. He requested Council approval of the amendment to the existing grant agreement to recognize new revenues and commit them to the project.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**H. REPORT ON FINAL CONSTRUCTION COSTS FOR THE VISTA PLACE OUTFALL REPAIR PROJECT AND ACCEPTANCE OF PROJECT**

City Engineer Rob English reported this is close out of the Vista Place Outfall, a small works project that was constructed this fall. The project constructed a new outfall structure on an existing storm drain pipe where the existing outfall was eroding. The contractor, G & G Backhoe, provided a low bid of \$27,704; the final cost paid to the contractor was \$25,770. The project is now complete; funding was provided by the Stormwater Fund.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

**I. PRESENTATION OF AN INTERLOCAL AGREEMENT WITH THE SNOHOMISH CONSERVATION DISTRICT**

City Engineer Rob English reported this is renewal of an agreement with the Snohomish Conservation District approved in 2010 for a 5 year term. The District provides services to cities and agencies within Snohomish County, assessing a fee to residents. Services the District has provided during the past five years include stormwater outreach and education, assisting residents with the design and implementation of raingardens, conducting raingarden workshops and involvement with the City's first neighborhood raingarden project that was completed this year. The existing ILA expires at the end of the year; the proposed ILA would continue the relationship with the District through the end of 2020. The 2016 scope of work, attached to the agreement, includes continued outreach and education with youth in the School District as well as implementing a second neighborhood raingarden program on 3<sup>rd</sup> Avenue, and continued assistance to Edmonds residents related to stormwater education and raingardens. A scope of work for 2017 will be developed at the end of 2016.

Councilmember Johnson said this is a very worthy relationship and it is great so many raingardens are being implemented communitywide.

It was the consensus of the Council to schedule approval on next week's Consent Agenda.

Mayor Earling declared a brief recess.

**CONVENE IN EXECUTIVE SESSION TO REGARDING POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

At 8:38 p.m., Mayor Earling announced that the City Council would meet in executive session regarding potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 5 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Petso, Bloom, Mesaros and Nelson. Others present were City Attorney Jeff Taraday and City Clerk Scott Passey. The executive session concluded at 8:43 p.m.

Mayor Earling reconvened the regular City Council meeting at 8:44 p.m.

**5. PUBLIC HEARING (cont'd)**

**A. PUBLIC HEARING ON 2016 BUDGET REVENUE SOURCES, INCLUDING ADOPTION OF THE SUBSTANTIAL NEED RESOLUTION AND THE 2016 PROPERTY TAX LEVY ORDINANCE**

Mr. James recalled in the prior discussion there was a 4-2 vote to approve the 1%. The Council now needs to decide whether to bank the capacity and pass the Substantial Need Resolution. City Attorney Jeff Taraday drafted an amendment to the Substantial Need Resolution; Mr. James asked whether the Council wanted to review the amendment or reopen discussions on the 4-2 vote.

Councilmember Petso said she was not interested in a reconsideration of the prior vote.

Mr. James and Mr. Taraday reviewed amendments to the Substantial Need Resolution:

- Last Whereas: "WHEREAS, the above recital clauses constitute the findings of the city council that there is substantial need to ~~levy~~ protect the city's future property taxes ~~levy~~ capacity ~~using~~

based on a limit factor of one hundred one percent and the city council desires to do the same; and now therefore,”

- “Section 1: Pursuant to the foregoing finding of substantial need and pursuant to RCW 84.55.0101, the city council desires to protect the city’s future property tax levy capacity by reserving or banking a potential increase to the City of Edmonds 2016 regular property tax levy by a limit factor of one hundred one percent or \$99,710 even though the actual amount of property taxes to be levied in 2016 is only intended to be increased by 0.251% (or \$25,027)”

Mr. Taraday reviewed amendments to the Property Tax Levy Ordinance:

- Title amended to read: “AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON PROVIDING FOR THE ANNUAL TAX LEVY BY INCREASING THE REGULAR PROPERTY TAX LEVY BY ~~THE CURRENT 101% LEVY LIMIT~~ 0.251%, THEREBY LEVYING AN ESTIMATED REGULAR PROPERTY TAX LEVY OF ~~\$10,144,598~~ \$10,070,015 AN EMS LEVY OF \$3,692,091 AND LEVYING \$949,540 FOR VOTED INDEBTEDNESS FOR THE PUBLIC SAFETY COMPLEX, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.”
- New 4<sup>th</sup> Whereas: “WHEREAS, the city recognizes that there is a substantial need to protect its future levy capacity by reserving and banking the unused property tax levy capacity that was created by adoption of the substantial need resolution (Resolution 1343), and”
- 5<sup>th</sup> Whereas amended to read: “...increase the regular property levy by ~~±~~ the amount of inflation (0.251%) and keep the...”
- Section 2: replace \$99,710 with \$25,027, 1% with 0.251% and \$10,144,698 with \$10,070,015
- New Section 6: “To protect the City’s future levy capacity, the City’s unused general property tax levy capacity for the year 2016 of 101% (the amount that could have been adopted pursuant to the adopted substantial need resolution – Resolution 1343) minus 0.251% (the amount of inflation as measured by the IPD and the increase actually levied above) is reserved and banked for future levy as provided by RCW 84.55.092.”
- Remaining section numbers updated
- Title at the end of the ordinance amended to match the title on the first page.

Councilmember Petso thanked Mr. Taraday and Mr. James for their work.

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO APPROVE RESOLUTION 1343.**

Councilmember Petso spoke in favor of the resolution. With the failure of the earlier motion, no tax increase is planned for 2016 and if this resolution passes, the Council would impose a small tax increase for 2016 and bank the remainder which would be good for citizens and the City.

Councilmember Mesaros asked for clarification of Councilmember Petso’s statement; even though no tax increase was planned now, the Council still had an opportunity to do a smaller than 1% tax increase as the budget was approved. Mr. James answered the Council has the option of approving an increase commensurate with the IPD rate alone and not bank the additional capacity which would create a \$25,000 tax increase. Mr. Taraday clarified must be done prior to November 30.

Mayor Earling commented most ordinances do not need to meet a deadline. He asked what happened if he vetoed the ordinance and the City did not meet the November 30 deadline. Mr. James said the tax amount for 2015 would then be in place for 2016 and there would be no increase. That would also apply to the EMS levy.

Councilmember Bloom asked whether the Council could vote tonight to approve the 0.251% increase. Mr. James responded there are limited options: no increase, IPD rate increase, 1%, or do nothing. Mr. Taraday clarified if the Council wanted to adopt the 0.251% increase without banking, another version of the ordinance and resolution would need to be created.

Council President Fraley-Monillas asked Mr. James to repeat his response to Mayor Earling's question of what happens if he voted the ordinance. Mr. James explained vetoing the ordinance would result in no tax increase whatsoever and the 2015 tax amounts would continue in 2016.

Councilmember Johnson suggested dividing the question, one vote on the substantial need resolution and another on the tax increase. Mr. James said the motion is only to pass the resolution.

At Council's request, Mr. Taraday read the language in Section 1 again: " Pursuant to the foregoing finding of substantial need and pursuant to RCW 84.55.0101, the city council desires to protect the city's future property tax levy capacity by reserving or banking a potential increase to the City of Edmonds 2016 regular property tax levy by a limit factor of one hundred one percent or \$99,710 even though the actual amount of property taxes to be levied in 2016 is only intended to be increased by 0.251% (or \$25,027)."

Council President Fraley-Monillas relayed her understanding that the resolution would increase taxes only by 0.251%. Mr. Taraday responded this version of the resolution was drafted to correspond with the version of the ordinance. If the Council does not intend to adopt the ordinance, they probably do not want to vote for this resolution.

**COUNCILMEMBER PETSO WITHDREW HER MOTION.**

Before agreeing to the withdrawal of the motion, Councilmember Johnson asked why Councilmember Petso withdrew the motion. Councilmember Petso said the questions and discussion generated by Council President Fraley-Monillas raised a concern in her mind that perhaps this is not the way to proceed.

**COUNCILMEMBER JOHNSON, THE SECONDER, AGREED TO THE WITHDRAWAL OF THE MOTION.**

Councilmember Petso suggested Mr. Taraday and Mr. James develop an ordinance that would implement the 0.251% property tax increase, the amount the City is permitted to levy without a Substantial Need Resolution. This was the consensus of the Council.

**J. DISCUSSION ON PROPOSED 2016-2021 CAPITAL FACILITIES PLAN/CAPITAL IMPROVEMENT PROGRAM**

Public Works Director Phil Williams explained this is an opportunity for the Council to discuss the proposed 2016 CFP/CIP. Staff has made two presentations in the past six weeks and are present to answer any questions.

Mayor Earling asked Parks & Recreation Carrie Hite if she wished to make an announcement. Ms. Hite reported she attended the Edmonds School Board meeting where the Board unanimously passed authorization for the superintendent to sign the purchase and sale agreement for Civic Field for \$1.9 million. She will pick up the agreement tomorrow morning. The District surplused the property, held a public hearing and unanimously approved the purchase and sale agreement.

City Engineer Rob English reported two presentations have been made to City Council and a public hearing held at the Planning Board. Tonight is an opportunity for Council questions and discussion. The CIP can be approved at any time; the CFP needs to be approved with adoption of the 2016 budget.

Councilmember Petso inquired about the survey results regarding the presence of bicycles on the Sunset Avenue Walkway. Mr. Williams answered survey responses are still being received and staff plans to allow it to remain active a bit longer to increase the number of responses. The responses have been a somewhat bipolar reaction, a lot of people really like the current set up and a lot do not like it at all. There were not as many in middle that somewhat agree/disagree or do not have an opinion; most respondents have a strong opinion. The results have not changed much during the last two weeks and survey responses are beginning to fall off. Once the survey is completed, the data will be presented to the Council. With regard to bicycles specifically; close to a majority of the responses said there were not enough bicycles to be a problem and another large number of responses, a lower amount, believed bicycles should be removed from the pathway.

Councilmember Petso asked whether staff could send Council, prior to the decision on the CIP/CFP, the breakout of responses to the bicycle question. Mr. Williams asked if that was the wish of the entire Council and suggested the responses be looked at in context; staff's plan was to present the Council a complete package. Councilmember Petso said the reason she asked for that information was when this was brought to Council in September, she made a motion to change the Sunset Avenue Walkway project from a multiuse path back to a walkway project. The response to the question regarding bicycles may help her decide whether to bring that motion again and might inform how other Councilmembers regarding their vote on that motion. If the results haven't changed much over the past few weeks, she would take whatever number of responses currently exists.

Council President Fraley-Monillas asked whether bicycles could be removed from the walkway for now and potentially added later. She asked whether it was set in stone like the 10 Commandments. Mr. Williams answered it does not rise to the level of the 10 commandments but was a major issue on its face as well as related to the grant agreement the City signed. He preferred to complete the survey and present an official version to the Council and granting agency. Council President Fraley-Monillas reiterated her suggestion to remove bicycles from the path and potentially, based on the survey, allow them later. She asked whether Mr. Williams still believed that would affect the grant. Mr. Williams answered he believed it could have an effect on the grant and he wanted to provide the best case possible, whatever decision the Council makes regarding bicycles, when talking to the granting agency. If the Council makes a quick decision now, it may be seen as the City opting to get rid of bikes on the pathway when the public feels they may be perfectly acceptable which will not be seen positively by the granting agency. He acknowledged it was ultimately the Council's decision.

Councilmember Bloom asked how many responses have been received. Mr. Williams answered in the 700s; approximately 15% of the responses are duplicates but those do not have a remarkable impact on the conclusions. Councilmember Bloom asked whether the survey was only on the website. Mr. Williams answered a link to the survey on the website was sent to numerous Edmonds citizen email lists. The rush of responses early on was a result of the press release and putting it on the City's website and people looking for the opportunity to respond to the survey. Responses are down but are still being received. Councilmember Bloom asked how duplicates were determined. Mr. Williams answered via the IP addresses, noting duplicates could be legitimate if more than one member of a household used the same computer.

With regard to Mr. Williams' indication the survey would be extended, Councilmember Bloom said the survey states the November 20 deadline so some people may not be completing the survey. Mr. Williams agreed that should be changed. Councilmember Bloom asked how long the survey would be extended.

Mr. Williams answered he did not have a firm date in mind; staff was watching the flow of responses and once it appears there are no more responses, it would be wrapped up. Councilmember Bloom asked if that would be done before the end of the year and before the Council makes a decision on the CIP/CFP. Mr. Williams answered he did not know due to the holidays. He offered to provide an update next week.

Councilmember Petso inquired about the changes to the 126 Fund between the document the Council adopted in September and the proposed document. She recalled approximately \$1 million in expenditures was shifted from the General Fund to the 126 Fund, thereby basically depleting the balance in the 126 Fund. For example, \$300,000 for the directional horns was moved from the General Fund to the 126 Fund, depleting the ending fund balance in the 126 Fund. She recalled the 126 Fund can be used for park or open space acquisition; if so, what is the rationale for that shift. Mr. Williams answered it was a team decision on behalf of the administration and looking at the administration's collective recommendation. There was a large and growing balance in the REET 1 126 Fund and it seemed sensible some could be used for one time projects the Council wanted funded in 2016 such as the wayside horns at Main and Dayton. The funds were there and unspoken for and from a Parks perspective, Ms. Hite would likely confirm her capital needs are being met without access to those funds.

Councilmember Petso asked what happened if something came up such as half price on the Ebbitide tide flats or something everyone would agree was a meritorious Park acquisition expenditure. With no balance in the 126 Fund she asked whether the purchase be made using reserves or bonding. Mr. Williams answered both would be possible, the City has bonding capacity if an unexpected opportunity like that occurred. He noted if bonds were issued, they could be paid with future REET revenues.

With regard to the 125 Fund, Councilmember Petso observed the budget book indicates the Council adopted a policy in 2006 dedicating amounts over \$750,000 to transportation projects. She was not certain this CFP/CIP reflected that. She asked whether that policy was adopted via a resolution or ordinance. Mr. Williams did not know. Ms. Hite relayed her understanding it was not a resolution or ordinance; it was a financial policy stated in the budget book, that Parks receives the first \$750,000; she fully programs that \$750,000 but there is often carryover from previous years. For example, in the 125 Fund this year there is over \$1 million programmed; \$750,000 for this year plus some carryover from last year.

If Council adopted a financial policy that states funds in excess of \$750,000 are to be used for transportation, Councilmember Petso asked whether Council was allowed not to follow that policy. Ms. Hite reiterated Council did not pass a financial policy with that wording. A policy has been discussed and there is language in the budget book about the Parks CIP going up to \$750,000 but it was her understanding there was no policy. Finance Director Scott James said his predecessor Roger Neumaier did an extensive amount of research and was only able to find a practice, not an adopted policy, resolution or ordinance. That practice was instituted several years ago and situations have substantially changed since then. Councilmember Petso said she will research the matter further and will inform Council if she finds a policy was adopted.

Councilmember Johnson said she has long felt the funds set aside for open space and park acquisition were lacking. She did not recall the Council considering the purchase of any parcel that was less than \$1 million to \$2 million so was concerned the fund balance was such a low amount and recommended the Council take another look at it.

Councilmember Bloom referred to Councilmember Johnson's comment, asking whether she was suggesting the Council look at that before finalizing the CFP/CIP. Councilmember Johnson answered yes. Councilmember Bloom asked how she recommended that be done, whether it was considering how funds would be allocated in the future or determining whether there was a policy related to expenditures over \$750,000. Councilmember Johnson suggested staff take another look at it and inform the Council how the

ability to purchase land in the future can be preserved. She recalled potential land purchases arise very quickly and several opportunities have passed the City by because adequate funding was not available. She was concerned because this was part of the PROS Plan and this issue was very important to her. As the City gets more developed, precious resource lands such as critical areas are often the last to be built on. She wanted to have the opportunity to purchase those lands in the future if an opportunity arose in order to preserve the environment and help create more open space.

Ms. Hite responded in developing the CIP budget this year, she had a similar conversation with Councilmember Nelson. The City Hall bonds have been paid off and there is \$200,000 in the open space acquisition line item with the thought that if land became available this year, those funds could be used to bond up to \$2 million. Last year's budget included \$100,000 to bond for the acquisition for Civic Field. The City was fortunate to obtain two grants and retain the \$400,000 that had been set aside and no bonding capacity was required for the purchase of Civic Field. Into the future, the \$200,000 is a placeholder to bond for open space acquisition. If Council wanted staff to consider how more could be budgeted, that could be done but she was satisfied with the budget this year. If the City did not have bonding capacity, she would also be concerned.

Mayor Earling relayed staff had these discussions several times during development of the budget and it was an honest effort by staff to address a great deal of one-time expenses. He relayed Mr. Williams, Ms. Hite and he are comfortable with it. He did not want to lose the opportunity to get to several one-time expenses that need to be taken care of, deferred work that needs to be done.

5. **PUBLIC HEARING (cont'd)**

A. **PUBLIC HEARING ON 2016 BUDGET REVENUE SOURCES, INCLUDING ADOPTION OF THE SUBSTANTIAL NEED RESOLUTION AND THE 2016 PROPERTY TAX LEVY ORDINANCE**

City Attorney Jeff Taraday explained the language related to banking the capacity was removed from the ordinance; all the percentages (0.251%), the levy amounts and the amount of the increase (\$25,027) are the same as the last version of the ordinance. Section 2 is the operative section that actually levies the taxes.

Councilmember Petso clarified the reference to substantial need was removed. Mr. Taraday said a whereas clause related to substantial need was removed and former Section 6 related to banking based on the substantial need was also removed.

Councilmember Nelson clarified this option did not include banking of any capacity. Mr. Taraday assured there was no banking in this option, just a straight increase of 0.251% or \$25,027.

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO ADOPT ORDINANCE NO. 4011 AS PRESENTED. MOTION CARRIED UNANIMOUSLY.**

Mr. James requested the Council continue the public hearing to next Tuesday.

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED TO CONTINUE PUBLIC HEARING TO NEXT WEEK. MOTION DIED FOR LACK OF A SECOND.**

Councilmember Petso questioned the need to continue the hearing since the Council already acted on the Property Tax Levy Ordinance that was listed on the agenda for a public hearing. Mr. James advised two public hearings are supposed to be held on the budget. The public hearing was missed last week due to cancelling the meeting so he requested it be continued to next week. Councilmember Petso suggested

scheduling a public hearing on the budget next week. Mr. James agreed the Council could open a public hearing, accept public comment and close it.

Councilmember Bloom expressed concern that the public hearing on the budget was not listed on the agenda. She asked if Mr. James' request was to continue the public hearing to next week rather than schedule a public hearing on next week's agenda. Mr. James said the agenda states public hearing. Councilmember Bloom pointed out the agenda states the public hearing was on the Property Tax Ordinance, not the budget. Two public hearings were scheduled last week, one on property taxes and one on the budget itself; on tonight's agenda they were combined but it was not clear that the public hearing was also on the budget. She did not see the purpose of continuing a public hearing that was not announced on the agenda and suggested holding a new public hearing next week.

City Clerk Scott Passey agreed the public hearing could be closed and a new public hearing on the budget noticed for next week. Mr. Taraday said there was a noticed public hearing for tonight on the 2016 budget although it may not have been identified as a separate item on the agenda. It did not matter whether the public hearing was closed or continued; the question was whether the Council wanted another notice of the public hearing on the 2016 budget. Councilmember Bloom said yes, noting even Mr. Wambolt was unclear whether a public hearing regarding the budget was on the agenda. She preferred to close this public hearing and have a separate public hearing on the 2016 budget next week. Mr. James said the original announcement of the budget schedule stated there would be public hearings on November 17 and 24. Last week's meeting was cancelled and one public hearing was held tonight and the intent was to hold another public hearing next week. Councilmember Bloom summarized it would be cleaner to close the public hearing and re-notice next week's public hearing.

Mayor Earling closed the public hearing. A public hearing regarding the 2016 budget will be scheduled on next week's agenda.

#### **7. MAYOR'S COMMENTS**

Mayor Earling wished the council, staff and community a Happy Thanksgiving.

Mayor Earling reported when Councilmember opened their mailbox last week, they found someone had put crumb rubber in the mailbox. Most citizen comments have been well intended and respectful about pros and cons of crumb rubber, but he found it despicable that someone would stoop to the level of going to a Councilmember's home and invading their privacy with such an ignorant effort. He was dismayed by this action and hoped there was a way to encounter the person who did it.

#### **8. COUNCIL COMMENTS**

Councilmember Bloom wished everyone a Happy Thanksgiving and encouraged anyone who hasn't completed the Sunset Avenue Walkway survey on the City's website to do so as soon as possible in order to get everyone's opinion.

Councilmember Nelson wished everyone a Happy Thanksgiving. He thanked the 116 people who attended last Wednesday's Edmonds Waterfront Access Study public meeting. He looked forward to sharing their great input, feedback and discussion in the future.

Councilmember Petso said she was blissfully unaware of the crumb rubber incident. With regard to what has changed regarding crumb rubber, she recalled when the issue first came to the Council, government agencies said crumb rubber was safe to play on and many people thought they had done their due diligence because of that. Government agencies are no longer saying it is safe to play on. As the Council

pondered that, talked to people and did research, she urged them to consider that the information has changed over the past six months.

Councilmember Petso expressed her appreciation for what the School District did in having a public hearing prior to finalizing the transaction with the City regarding Civic Field even though it delayed the transaction for a week. She plans to research what City Council could do to ensure future property sales by the City also follow a more structured process. She read in the newspaper frustration by a group of citizens to find that a purchase and sale had been arranged between two government agencies on a property they were very concerned with and the entire deal was essentially done in executive session and one governing body finalized the deal in public after meeting in executive session. She acknowledged that could be frustrating for citizens.

Councilmember Johnson wished everyone a Happy Thanksgiving and invited them to the annual tree lighting ceremony sponsored by the Chamber of Commerce, beginning at 4:30 p.m. with lighting at 5:30. She invited members of the Citizens Economic Development Commission to contact her to express their opinion.

Councilmember Mesaros echoed Councilmember Johnson comments. He encouraged the public to attend the tree lighting ceremony, noting it is a fun event; the weather Saturday evening will be crisp and cold.

Council President Fraley-Monillas looked forward to the tree lighting ceremony, noting it was her 10<sup>th</sup> year attending that event and it means a lot to her family. She expressed kudos for the Saturday Holiday Market, noting she left with two bags of food. The Saturday Market continues through December 19 and features cheeses, meat, flowers, pastas, etc.

Council President Fraley-Monillas urged Councilmembers to submit questions regarding the budget to staff in advance. The Council has not yet had any discussion regarding the budget and because there is a short time left to finish budget, it is crucial to streamline the process. She invited Councilmembers to call her with any questions about the Council's budget.

Councilmember Petso asked whether Councilmembers should begin making proposed amendments to the budget. Mayor Earling said he would like to get budget completed during the next couple meetings. Numerous questions have been submitted and answered by staff. The sooner amendments can surface the better for the Council to make decisions.

Councilmember Johnson suggested proposed amendments be sent to Mr. James and copied to Councilmembers. Mayor Earling agreed.

9. **CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION  
PER RCW 42.30.110(1)(i)**

This item was not needed.

10. **RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

This item was not needed.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 9:41 p.m.